

REMARKS

Claims 2, 15, 17, 30, 32, 45, and 47 have been canceled. The application now includes claims 1, 3-14, 16, 18-29, 31, 33-44, 46, and 48-60.

Claims 1-15 have been amended by adding the phrase “computer implemented” in line 1 as suggested by the Examiner (Office Action at 4-5).

Cancellation of claims 2, 17, 32, and 47 makes moot the rejection of these claims under 35 U.S.C. 112, second paragraph. Moreover, independent claims 1, 16, 31, and 46, which incorporate the substance of the now canceled claims, do not include the same phraseology which the Examiner rejected.

Claims 3, 4, 18, 19, 33, 34, 48, and 49 have been amended by changing “entities” to “at least one entity” in order to more closely reflect the language of the independent claims from which these claims depend, thus addressing the Examiner’s rejection under 35 U.S.C. § 112, second paragraph, on the basis that the term “entities” lacked an antecedent basis. (Office Action at 2)

Claims 10, 25, 40, and 55 have been amended by changing “the offered prices” to “an offered price” in order to address the Examiner’s rejection under 35 U.S.C. § 112, second paragraph, on the basis that the term “the offered prices” lacked an antecedent basis. (Office Action at 2)

Claims 11, 26, 41, and 56 have been amended by changing “the perceived quality of the goods or services being offered” to “a description in terms of quality of what is being offered” in order to address the Examiner’s rejection under 35 U.S.C. § 112, second paragraph, on the basis that the term “the perceived quality of the goods or services being offered” lacked an antecedent basis. (Office Action at 2)

Claims 12, 27, 42, and 57 have been amended by changing “the type of goods or services being offered” to “a description sufficient to identify what is being offered” in order to address the Examiner’s rejection under 35 U.S.C. § 112, second paragraph, on the basis that the term “the type of goods or services being offered” lacked an antecedent basis. (Office Action at 3)

Claims 13, 28, 43, and 58 have been amended by changing “the perceived reliability of said entities” to “a description in terms of reliability of said at least one entity” in order to address the Examiner’s rejection under 35 U.S.C. § 112, second paragraph, on the basis that the term “perceived reliability” lacked an antecedent basis. (Office Action at 3)

Claims 14, 29, 44, and 59 have been amended by changing “the perceived optimum solution to the fulfillment” to “a solution to fulfillment” in order to address the Examiner’s rejection under 35 U.S.C. § 112, second paragraph, on the basis that the term “perceived optimum solution” lacked an antecedent basis and, further, rendered the claim indefinite. (Office Action at 3)

Claims 15, 30, 45, and 60 have been amended by changing “translating terms of art contained within said request” to “processing data from a market database” in order to address the Examiner’s rejection under 35 U.S.C. § 112, second paragraph, on the basis that the term “translating terms of art contained within said request” lacked an antecedent basis and, further, was unclear. (Office Action at 3) Support for such amendment may be found in the Specification at page 8, lines 8-11.

Claims 16-30 have been amended by changing the term “system” to “data processing system” in order to address the Examiner’s rejection under 35 U.S.C. § 112, second paragraph, on the basis that the term “system” as used in the claims was unclear. (Office Action at 3) Support for such amendment may be found in Figure 2, element 10, and in the Specification at page 7, lines 4-12.

Claim 31 has been amended by changing the term “need fulfillment optimization system” to “data processing system for need fulfillment optimization” — and Claims 33-44 have been amended by changing the term “system” to “data processing system for need fulfillment optimization” — in order to address the Examiner’s rejection under 35 U.S.C. § 112, second paragraph, on the basis that the term “system” as used in Claims 31-45 was unclear. (Office Action at 3) Support for such amendment may be found in figure 2 and in the Specification at page 7, lines 6-9.

Claim 40 has been amended by changing “claim 41” to “claim 31” to correct a typographical error.

Claims 46-60 have been amended by adding the phrase “machine readable medium containing a” in line 1 to address the rejection of this claim under 35 U.S.C. § 101 as not directed towards statutory subject matter. (Office Action at 4-5) Support for such amendment may be found in Figure 2, element 18.

While not raised in the office action, each of independent claims 1, 16, 31, and 46 has been amended to correct for antecedent basis issues. In particular, the claims now recite “at least one” when referring to the request, and the “offers”, have been identified as being those received in response to the request for an offer to fulfill the at least one request. In addition, the “identified” term has been revised to address antecedent basis issues in claims 3, 4, 13, 16, 31, and 46.

Rejection of Claims 1-60

Claims 1-60 were rejected on three grounds: under 35 U.S.C. § 112, second paragraph, for indefiniteness; under 35 U.S.C. § 101 as directed to nonstatutory subject matter; and under 35 U.S.C. § 103(e) as suggested by U.S. Patent No. 6, 085,176 to Woolston. These rejections are traversed in view of the amendments above and comments below.

As currently amended, Claims 1, 3-14, 16, 18-29, 31, 33-44, 46, and 48-60 do not raise the issues on which the Examiner based the rejection of these claims under 35 U.S.C. § 112, second paragraph, and under 35 U.S.C. § 101, and are now in compliance with the statute. In particular, the independent claims make clear that the process used employs a computer or network to search a market database and determines equivalent products or services or combinations thereof, which meet requirements of the request. Further, the process and system being claimed provides that the assembled information is then used for obtaining offers to fulfill the request and to communicate those offers to the requesting party.

In practicing the invention, in addition to the product or service requested, the claimed invention also uncovers for the requestor suitable substitute products or services that would be offered through different markets which would otherwise not have been considered. Figure 2 of the application shows the use of a CPU 10 to search the database

20. Figure 3 and 4 of the application shows the connections of the aggregator 28 to the several different markets (marketplace 32) for a buyer 30 or seller 34. As explained by example on page 6 et seq., of the application, the invention thus provides the seller or buyer with more opportunities than if he was only looking for the best price on widgets (see Figure 1). For example, while gears and pulleys may not fulfill requirements of the buyer, cogs, provided by Supplier H, may provide the buyer with a lower cost option he otherwise would not have considered.

The invention differs remarkably from Woolston in that Woolston does not have a mechanism for identifying a plurality of markets that are capable of fulfilling the request where both the suppliers of the requested products and services are considered AND suppliers of suitable substitute products and services are determined using a computer or network. Furthermore, Woolston provides no mechanism whatsoever for “requesting at least one offer” as required in the independent claims.

Woolston is directed to “used and collectible goods offered for sale by an electronic network of consignment stores” (Woolston, column 1, lines 13-15), while neither Claims 1-60 nor the Specification includes any mention of such goods. Furthermore, the invention disclosed by Woolston operates by facilitating searches through postings of Internet sites for items sought by a searcher, where Claims 1-60 involve “requesting at least one offer” from an entity within a specified market, which is not suggested by Woolston. This is a key distinction, as discussed below.

The Examiner was incorrect in reading claims 1 and 7 of Woolston as including a requirement of “requesting at least one offer,” as in Claims 1, 16, 31, and 46 of the claimed invention. (Office Action at 5) To the contrary, claims 1 and 7 of Woolston involve (i) formatting an Internet search request, (ii) transmitting said search request, and (iii) receiving search results in response to the transmitted search request. (Woolston, claim 1, lines 36-48, and claim 7, lines 6-14) (emphasis added) One of ordinary skill in the art would not understand the use of the terms “search request” and “search result” in Woolston as suggesting “requesting at least one offer” as in the independent claims of the claimed invention. Instead, the terms “search request” and “search result” would be understood by one of ordinary skill in the art as suggesting the use of web crawlers or

similar automated Internet search technology to locate information posted on Internet sites. Among other consideration, “requesting at least one offer” as in Claims 1, 16, 31, and 46 involves active communication with a seller, while use of a “search request” and “search result” as in Woolston specifically avoids such active communication.

This reading of the terms “search request” and “search result” is supported by the use of the term “software search agent” in claim 7, line 7, of Woolston, which is cited by the Examiner in support of rejection. (Office Action at 5) Using automated search agents to identify items available for purchase is also reflected in the title of Woolston’s patent.

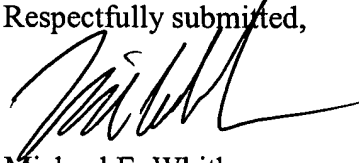
Finally, the Examiner’s reference to column 1, lines 12-65 as standing for the proposition that Woolston shows searching for goods that are similar is not on point, and is quite different from the claimed invention. Woolston describes searching for collectible goods. These would be of a particular type to begin with. In contrast the claimed invention identifies a plurality of markets where a central processing unit is used to search stored market profiles to determine equivalent products or services or combinations of products or services to said product or service of said at least one request and which would fulfill any requirements of said at least one request, whereby a plurality of markets that are capable of fulfilling said at least one request is identified from said product or service of said at least one request and said equivalent products or services or combinations of products or services determined using said central processing unit. From this plurality of markets that are identified, the claimed invention provides a request for an offer as discussed in detail above.

Conclusion

In view of the foregoing, Applicant submits that Claims 1, 3-14, 16, 18-29, 31, 33-44, 46, and 48-60 are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed.

Applicant hereby makes a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Applicants' Deposit Account No. 50-0510 (IBM Corporation).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael E. Whitham', written over a horizontal line.

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